

California Department of Motor Vehicles
Response to Questions Posed by the National Transportation Safety Board
For the Public Hearing October 7-8, 2008
Washington, DC

The California Department of Motor Vehicles (DMV) appreciates this opportunity to present information to the Board. These responses were developed through collective input from several DMV officials and represent the Department's best attempt to answer the Board's questions as the Department understands them. Even so, the DMV is fully prepared to provide whatever additional information the Board deems necessary.

When is a vehicle considered "imported" by California regulations?

The California Vehicle Code and related regulations do not set forth a specific definition for "imported" vehicles. However, Section 39024.6 of the California Health and Safety Code defines a "direct import vehicle" as any "light-duty motor vehicle manufactured outside of the United States which was not intended by the manufacturer for sale in the United States and which was not certified" to meet the emission standards for newer vehicles established by the California State Air Resources Board. (California Health & Safety Code Sec. 41000 et seq.)

Chapter 10, Section 10.005 of the California Vehicle Registration Manual defines a "Direct Import Vehicle" as: "(a) vehicle that is not manufactured to meet U.S. federal safety requirements and/or U.S. or California emission standards and not intended by the manufacturer to be used or sold in the United States." The California Vehicle Registration Manual is an internal DMV manual of procedures that the Department follows when processing its transactions. The general authority for this Manual can be found in California Vehicle Code Section 4150(d).

What processes must a vehicle owner, who brings (imports) a vehicle manufactured in a foreign country into California do in order for the state to register that vehicle in California?

An application for intrastate registration of an imported vehicle must include an Application for Registration (DMV Form REG 343/REG 1 COMBINED). This form includes owner information, such as name and mailing address, title holder information (if applicable), odometer information, cost information, date of purchase, purchase price, and a signature for the new owner under penalty of perjury. The requirements for this form are based on California Vehicle Code Section 4150. Subdivision (d) of Section 4150 authorizes the DMV to require any other information that it deems is reasonably necessary to complete a vehicle registration. Many of the requirements in the California Registration Manual derive from the inherent authority granted the Director of the DMV by Vehicle Code Section 4150(d).

A physical inspection of the vehicle completed by an authorized DMV representative, an authorized auto club, a peace officer who has been trained to perform vehicle verifications, or a licensed "vehicle verifier" is also required. A "vehicle verifier" is defined by California Vehicle Code Section 675.5 as "a person...who inspects, records, documents, and submits to the department [the DMV], or its authorized representative, such proof of vehicle identification as may be required by the department for registering or transferring the ownership of vehicles." California Vehicle Code Section 11300 specifies that a vehicle verifier must obtain a permit from the DMV, while Sections 11302 et seq. provide for license discipline if certain misconduct is committed by a licensed verifier. The verifier must also be bonded. (Veh. Code Sec. 11301.) The verification process required for the registration of an imported vehicle includes inspection and identification of the Vehicle Identification Number (VIN), a description of the type of VIN (i.e., stamped or metal plate), an odometer reading, and whether the labeling indicates that the

vehicle complies with U.S. or California emission requirements. The duly authorized individual completing the verification must sign under penalty of perjury as to the accuracy of the information entered onto the Verification of Vehicle form. (DMV Form REG 343/REG 1 COMBINED).

The vehicle verification process includes an inspection to ensure that the vehicle complies with Federal Motor Vehicle Safety Standards (FMVSS) unless the vehicle is 25 or more years old. (DMV Form REG 343/REG 1 COMBINED.) Acceptable evidence of compliance with FMVSS standards includes a federal certification label affixed to the vehicle or a copy of a letter from the vehicle manufacturer attesting to the fact that the vehicle complies with FMVSS requirements (this latter option generally is only available for vehicles manufactured in Canada). (California Vehicle Registration Manual, Section 10.110.)

California also has the authority pursuant to California Vehicle Code Section 34500 et seq. to regulate the “safe operation” of specified motortrucks, truck tractors, school buses, trailers and semitrailers, and various other larger vehicles. Vehicle Code Section 34501.12 provides that all intrastate motor carriers that maintain a base of operations in California must participate in a terminal inspection program. Members of the California Highway Patrol (CHP) inspect the terminals and vehicles of California-based carriers for safety and related purposes at least every 25 months. [Vehicle Code Section 34501.12(d)(1).]

The California DMV also requires evidence that an imported vehicle has cleared U.S. Customs. This requirement is based on Section 10.110 of the California Vehicle Registration Manual. Satisfactory evidence that a vehicle has cleared customs includes U.S. Custom Forms 7501, 3461, 6059, 3299, or 3311. These forms must be stamped or otherwise endorsed by U.S. Customs.

A copy of the U.S. Department of Transportation bond release letter issued by the National Highway Traffic Safety Administration is another requirement as required in Title 49, Code of Federal Regulations, Section 591. The bond release letter ensures that a nonconforming vehicle has been brought into compliance with Federal Motor Vehicle Safety Standards (FMVSS) by the registered importer prior to its use on any public road.

A certificate of conformance issued by a laboratory approved by the California Air Resources Board (ARB) is another mandatory requirement in the registration process for imported vehicles. This requirement is based in part on California Health & Safety Code Section 44201. Section 44201 provides that the California State Air Resources Board is required to adopt, through regulations, a certification program for used direct import vehicles, and must issue certificates of conformance to import vehicles that meet the requirements of the program.

California Health & Safety Code Section 44202 states that a direct import vehicle may not be registered in this state without a certificate of conformance. Health & Safety Code Section 44203 states that a certification of a direct import vehicle must include: (1) a test of the emission system; (2) a determination of whether the vehicle meets applicable emission standards adopted by the Board; (3) an inspection for vehicle labeling that shows the vehicle can be inspected, serviced, and repaired; and (4) any requirements the Air Resources Board determines appropriate to ensure that the vehicle can continue to meet emission requirements. (California Health & Safety Code Sections 43203.5 and 44200-44210.)

California Vehicle Code Section 4000.2 specifies, with limited exceptions, that the DMV shall require upon application for registration of a vehicle previously registered in another state a valid certificate of compliance or noncompliance with Health & Safety Code Section 44015 (a smog

certification). Situations in which a smog certification is not required include transactions involving newer model motor vehicles, transactions between family members, and registrations that fall in between the biennial certification renewal years. (Veh. Code Sec. 4000.1)

Evidence of compliance with U.S. EPA and/or California emission standards is also required. (California Health & Safety Code Section 44202 and related provisions). Acceptable proof of compliance with U.S. EPA and/or California emission standards includes a U.S. EPA or California emission label affixed to the vehicle.

Pursuant to California Vehicle Code Section 4000, all vehicles that operate in the State of California must pay appropriate registration fees and related charges. Fees are also required to be paid for vehicles or fleets of vehicles registered under the International Registration Plan (IRP) pursuant to California Vehicle Code Section 8000 et seq. These requirements apply regardless of the source of the vehicle seeking registration in this state.

Because transactions involving the registration of imported vehicles are complex, all applications for intrastate registration of a direct import vehicle are reviewed by the department's Technical Compliance Section to determine if any requirements are not satisfied. Staff in this section is specially trained in reviewing these transactions and can ensure the transactions processed in the field meet all requirements. The tools available to the Technical Compliance Section are now available for IRP registrations.

If a requirement is not satisfied, the Technical Compliance Section will contact the customer directly in order to obtain any additional information that is needed to finish processing the application. If the responses received from the applicant are considered by the reviewing technician to be inadequate, review of the pertinent application will be elevated to a higher management level for further review.

What processes are in place in CA to verify a vehicle manufactured in a foreign country meets FMVSS criteria?

The California DMV requires an authorized DMV representative, an authorized auto club, a peace officer who has been trained to perform vehicle verifications, or a licensed "vehicle verifier" to perform an inspection of every vehicle imported from a foreign jurisdiction (see vehicle verification requirements detailed above). The California Vehicle Verification form, REG 343/REG 31 COMBINED, requires the individual conducting the verification to examine the vehicle for appropriate labeling indicating that it is compliant with applicable Federal Motor Vehicle Safety Standards (FMVSS) and federal and/or California emissions standards.

Vehicles are only exempt from these requirements if certificates are available demonstrating conversion of the vehicle or if the vehicle is exempt because of its age (U.S. DOT Form HS-7). These certificates demonstrate that a vehicle has been modified by a licensed laboratory to comply with federal safety standards and California emissions standards. For example, metric gauges can be changed and U.S.-specific safety equipment installed. Engines are usually modified with the installation of California-specific emissions equipment. If the vehicle is a 1968 or newer year model auto or commercial vehicle that does not comply with U.S. emission requirements and/or is a vehicle less than 25 years old that does not comply with U.S. FMVSS, the customer is referred to the California Air Resource Board.

Is the California process for registering a vehicle under IRP any different than what the representative from AAMVA has stated? What are those differences?

We are not familiar with their statements. (At this point we can only assume what the representative from AAMVA will say with regards to the requirements under the IRP Plan.) California complies with IRP requirements with regard to the registration of vehicles in IRP. The DMV does note that IRP Section 315 specifies that the base jurisdiction shall determine the manner of the “application process” for registering IRP vehicles within its territory.

Moreover, the California DMV has specific state statutory requirements with which it must also comply in registering motor carriers. These requirements are spelled out in California Vehicle Code Section 34621, and include the following requirements: (1) the full name of the carrier, including any fictitious business name; (2) the legal status of the business (i.e., corporation, partnership, etc.) (3) the California carrier number; (4) the U. S. Department of Transportation (U.S. DOT) number and Federal Employer Identification Number or Social Security Number for the carrier and person responsible for the safety of the vehicle; (5) evidence of payment or exemption of Federal Heavy Vehicle Use Tax; (6) a vehicle verification completed by an authorized DMV employee, an authorized auto club, a trained peace officer, or licensed vehicle verifier; and (7) other information as required by the DMV.

How does a carrier apply for CA apportioned registration, under IRP? What forms must be submitted and what process does the State follow to verify the legitimacy of the vehicle?

To apply for California apportioned registration under the International Registration Plan (IRP) a carrier must submit the following documentation: (1) a California IRP Carrier Information – Schedule A/B, which includes fleet mileages and percentages of operation in each relevant member jurisdiction under the IRP; (2) a California IRP Vehicle Data form – Schedule C (a schedule used to identify vehicles and their operating weights); (3) the U. S. Department of Transportation (U.S. DOT) number and Federal Employer Identification Number or Social Security Number for the carrier and person responsible for the safety of the vehicle (Vehicle Code Section 34621); (4) evidence of payment or exemption of Federal Heavy Vehicle Use Tax (Vehicle Code Section 4750); (5) a vehicle verification completed by an authorized DMV employee, an authorized auto club, a trained peace officer, or a licensed vehicle verifier (Vehicle Verification Form REG 343/REG 31 COMBINED; effective with the 2009 registration process); (6) evidence of International Fuel Tax Act registration (Vehicle Code Section 8046); (7) evidence to establish a place of business for base jurisdiction purposes (set forth in IRP Section 305(c), which delineates a variety of factors that a member jurisdiction must consider with respect to establishing a base jurisdiction); (8) an agreement to Prepare and Maintain Records and Report Information in Accordance with the International Registration Plan (based on IRP Section 1005, which obligates a base jurisdiction to ensure that registrants maintain adequate records for audit purposes).

In addition to the specific authorities cited above, these requirements are also generally derived from California Vehicle Sections 8100 and 34621, IRP Sections 315 and 1005, and the general authority to require all necessary information to register a vehicle as granted by California Vehicle Code Section 4150(d).

Further, the following documents are required if evidence indicates the vehicle was manufactured for sale outside of the United States: (1) evidence of compliance with FMVSS standards (the Vehicle Verification, Form REG 343/REG 31 COMBINED, discussed above)

unless the vehicle is 25 or more years old; (2) evidence the vehicle has cleared U.S. Customs as outlined in Title 49, Code of Federal Regulations, Parts 500 - 599; and (3) evidence of compliance with U.S. EPA and/or California emission standards. (California Vehicle Verification form, REG 343/REG 31 COMBINED, and California Vehicle Code Section 34500 et seq.)

Does the State conduct a physical examination of a vehicle manufactured in a foreign country and brought directly into California?

The California Department of Motor Vehicles requires an inspection of every vehicle imported from a foreign jurisdiction by an authorized DMV representative, a licensed California vehicle verifier, an authorized auto club or a properly trained peace officer. (California Vehicle Verification form, REG 343/REG 31 COMBINED.) The individual conducting the verification is required to examine the vehicle for appropriate labeling that establishes the vehicle is compliant with applicable Federal Motor Vehicle Safety Standards (FMVSS) and California emission standards. (California Vehicle Verification form, REG 343/REG 31 COMBINED.)

Vehicles are only exempt from this labeling requirement if documents are available demonstrating conversion of the vehicle or if the vehicle is exempt because of its age. This documentation demonstrates that a vehicle has been modified by a licensed laboratory to comply with federal safety standards and California emissions standards. For example, metric gauges can be changed and U.S.-specific safety equipment installed. Engines are usually modified with the installation of California-specific emissions equipment. Applicants can claim an age exemption from compliance on US DOT Form HS-7. If the requisite labeling is missing, the DMV requires additional documentation to establish FMVSS compliance.

California Vehicle Code sections 10750, 10751, and 10752 prohibit the altering, changing, or removal of a vehicle identification number without written authorization from the DMV. Chapter 24.035 of the California Vehicle Registration Manual instructs the vehicle verifier to refer the applicant to the California Highway Patrol (CHP) for a more in-depth inspection if a discrepancy is found in the vehicle identification number, if the vehicle identification number has been altered or tampered with in any way, if the Federal Certification Label is missing or illegible and an alternate vehicle identification number cannot be located, or if the label does not agree with the vehicle identification number.

Is there any physical examination of a vehicle registering under IRP for FMVSS compliance?

The DMV generally requires an examination of a vehicle for FMVSS compliance. However, the IRP does not specifically require that a vehicle registered under its provisions be titled in this state. Titling in another state is common for vehicles relocated to California while financed with a lender. IRP is unique in that vehicle titling can be completely disconnected from registration and because the vehicles are commonly located in other jurisdictions. Therefore, at the time a vehicle is registered under the IRP, it may be physically located in another jurisdiction making FMVSS verification of the vehicle difficult. All IRP registered vehicles are subject to inspection at roadside inspection stations operated by the California Highway Patrol (CHP); however, the DMV is not well versed in what these CHP inspections entail.

If California wanted to determine if a vehicle applying for registration was FMVSS compliant, where would they go to make that determination?

In verifying FMVSS compliance, the California DMV uses a vehicle registration program known as VINA. VINA stands for Vehicle Identification Number Analysis. VINA is a computer software program developed by R.L. Polk & Company that is designed to validate a vehicle identification number (VIN) and decode its content. When VINA identifies a vehicle as a direct import, it returns a message to the technician processing the transaction.

Satisfactory evidence of FMVSS compliance includes one of the following: (1) the Federal Certification Label affixed to the vehicle that certifies the vehicle conforms to all FMVSS requirements; (2) a copy of a letter from the manufacturer certifying the vehicle complies with FMVSS and U.S. Emissions Standards (this is usually attainable *only* for vehicles from Canada); or (3) labeling attached by a registered importer, an ARB-approved laboratory, or an independent commercial importer verifying compliance as outlined in California Vehicle Registration Manual Chapter 10, Section 10.110. If FMVSS compliance cannot be established or an authorized exemption does not apply, the transaction cannot be processed and the applicant is required to remove the vehicle from the state.

If California were to determine a vehicle applying for registration or one that already been registered in California was non-FMVSS compliant, what action would they take?

The department will cancel the registration and title, seek their surrender, and direct the vehicle owner to make the appropriate conversions (if possible) to the vehicle or remove it from the state. California Vehicle Code Sections 4751 and 8800 establish the DMV powers to refuse or cancel registration of vehicles. Section 4751(c) authorizes the DMV to refuse registration if a vehicle is unsafe or mechanically unfit. Vehicles failing to meet applicable federal standards fall within this limitation by virtue of the fact that they fail to meet an applicable minimum safety standards. As a result, DMV will not register direct import vehicles that do not show appropriate compliance. California Vehicle Code Section 8800 authorizes DMV to cancel registration that should not have been issued, including a registration that is erroneously issued to a non-FMVSS compliant vehicle.